SENATE COMMITTEE ON APPROPRIATIONS
Senator Anthony Portantino, Chair
2021 - 2022 Regular Session

AB 2464 (Cristina Garcia) - California State University: employees: paid parental leave of absence

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Urgency: No
Hearing Date: August 1, 2022

Policy Vote: L., P.E. & R. 5 - 0, ED. 5 - 1
Mandate: No
Consultant: Robert Ingenito

Bill Summary: AB 2464 would require California State University (CSU) to provide employees with a paid leave of absence of one semester, as specified, following the birth of a child of the employee or the placement of a child with an employee in connection with adoption or foster care placement.

Fiscal Impact: CSU estimates that it would incur annual General Fund costs of $24 million to implement the provisions of the bill. This amount is based on an additional 10 weeks leave for employees who currently get six weeks, and an additional 16 weeks leave for employees who do not currently receive a leave (generally part-time, temporary employees). CSU assumes that 2.5 percent of employees in each category would receive the additional leave.

Background: Prior to 2021, the California Family Rights Act (CFRA) entitled eligible employees of covered employers (50 or more employees) to take up to 12 workweeks of unpaid, job-protected leave during a 12-month period for specified family care and medical leave reasons. CFRA defined "family care and medical leave" as any of the following: (1) leave for reason of the birth of a child of the employee, the placement of a child with an employee in connection with the adoption or foster care of the child by the employee, or the serious health condition of a child of the employee, (2) leave to care for a seriously ill parent or spouse, or (3) leave because of an employee's own serious health condition. In 2020, CFRA's scope was expanded to (1) apply to employers with five or more employees (including the state, and any political or civil subdivision of the state and cities), and (2) allow employees to take leave to care for domestic partners, child of domestic partner, grandparents, grandchildren, siblings, and parent-in-laws. CFRA's federal counterpart, FMLA, continues to apply to employers of 50 or more.

The Paid Family Leave program provides a partial 60-70 percent wage-replacement benefit for up to eight weeks of leave and, when taken concurrently with CFRA, entitles the employee to a job upon completion of the leave. School employees, however, are not eligible for Paid Family Leave benefits if (1) full wages were or will be paid to the employee during the contract period when services were performed, (2) a period of family leave overlaps with a school break and the employee is not scheduled to work, does not have a history of working during the break, or does not have an additional employer, or (3) the family leave period extends through the school break period.

However, if the employee is not receiving wages but would have been working for extra income if not on family leave (such as teaching summer school classes or other secondary job), then the employee may be eligible for benefits to replace the additional income.

In February, 2022, CSU and California Faculty Association (CFA) ratified a new contract 2022-24. Among other things, regarding leaves of absence with pay, the collective bargaining agreement provides the following:

Paid Maternity/Paternity Leave

- 23.4 A bargaining unit employee shall be entitled to a maximum of thirty (30) days of parental leave for the reasons specified in provision 22.10 of this Agreement. Such leave shall be taken consecutively, unless mutually agreed otherwise by the employee and the appropriate administrator. This leave shall commence within a one hundred and thirty-five (135) day period beginning sixty (60) days prior to the anticipated arrival date of a new child and ending seventy-five (75) days after the arrival of a new child. Such leave shall be charged only for workdays in such a period of time and may be used for reason of the birth of a child of the employee or the placement of a child with an employee in connection with the adoption or foster care of the child by the employee.

- 23.5 A paid parental leave granted in accordance with provision 23.4 runs concurrently with other parental, pregnancy disability and/or family care and medical leave provisions of Article 22, Leaves of Absence Without Pay, and may be supplemented in accordance with the provisions of Article 24, Sick Leave, of this Agreement. Normally, fifteen (15) days of earned sick leave may be charged. A physician's verification of disability shall be required for the use of earned sick leave pursuant to this provision in excess of fifteen (15) days.

Information supplied to the Senate indicates that the new contract did not change the parental policy (providing 30 paid parental leave days); however, it did establish a Parental Support Workgroup. On December 17, 2021, CFA and CSU signed a Memorandum of Understanding (MOU) agreeing to form this workgroup to review (1) parental support for faculty at CSU and other higher education institutions, and (2) leave utilization and trends within CSU. The workgroup will create a report of its findings and that report will be given to the Academic Senate, the Board of Trustees, and the Chancellor within six months of the first meeting. Additionally, the MOU included a provision that the parties further agree that the CSU may increase the number of paid parental leave days provided in the CBA at any time. The workgroup held its first meeting on June 6, 2022 and a report is expected in December 2022.

Proposed Law: This bill would do the following:

- Require the trustees CSU to grant an employee (as defined) a leave of absence with pay for one semester of an academic year, or equivalent duration, in a one-year period, following the birth of a child of the employee or the placement of a child with an employee in connection with the adoption or foster care of the child by the employee.

- Require the leave of absence to be taken in consecutive periods unless otherwise agreed to by mutual consent between the employee and an appropriate administrator. Specify that only working days shall be charged against the leave of absence.

- Specify that, if these provisions conflict with the provisions of a memorandum of understanding reached, as specified, the memorandum of understanding shall be controlling without further legislative action, except that, if those provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

Staff Comments: CSU notes that its fiscal estimate reflects only additional costs beyond its current parental leave policy. CSU additionally notes that if more employees choose to utilize the benefit under this bill than it currently assumes, the fiscal impact would be greater. For example, if 3 percent of employees took leave in a given year, the total annual cost would be $29 million.

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